

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1735

Introduced by Committee on Agriculture (Parra (Chair), La Malfa (Vice Chair), Berryhill, Dymally, Fuller, Galgiani, Jones, and Mendoza)

March 15, 2007

An act to amend Sections 33527, 35781, 35783, 35783.1, 35861, 35891, 35893, 35971, 36861, 36951, 36981, 38421, 38671, 38731, 38761, and 38791 of, *and to repeal and add Article 29 (commencing with Section 38761) of Chapter 5 of Part 3 of Division 15 of*, the Food and Agricultural Code, relating to milk and dairy products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1735, as amended, Committee on Agriculture. Milk and dairy products: standards.

Existing law regulates the cooling time for, temperatures of, and microbial standards for market milk, as specified.

This bill would reduce the required cooling time and temperatures of market milk, as specified. This bill would also specify a specific microbial standard for coliform bacteria within market milk, as specified.

Existing law provides that any violation of these provisions is a misdemeanor.

Because this bill would change the terms of a crime, the bill would impose a state-mandated local program.

Existing law defines half-and-half, ice cream, sherbet, nonfat dry milk, sour cream, yogurt, ~~whipped cream~~, and eggnog, for purposes of regulation.

This bill would set forth limits on the amount of bacteria that may be present in any of those products.

Existing law provides that any violation of these provisions is a misdemeanor.

Because this bill would change the terms of a crime, the bill would impose a state-mandated local program.

Existing federal law defines light cream, coffee cream, or table cream, light whipping cream or whipping cream, heavy cream or heavy whipping cream, and whipped cream.

This bill would provide that these products shall be defined as food that complies with those provisions and would set forth limits on the amount of bacteria that may be present in any of those products. Because this bill would create new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33527 of the Food and Agricultural Code
2 is amended to read:

3 33527. The milk or cream shall be cooled as provided in
4 Section 35783 and so maintained until delivery to a milk products
5 plant.

6 SEC. 2. Section 35781 of the Food and Agricultural Code is
7 amended to read:

8 35781. (a) Except as otherwise provided in this article, market
9 milk shall not contain any of the following:

10 (1) More than 15,000 bacteria per milliliter or more than 10
11 coliform bacteria per milliliter if to be sold as raw milk to the
12 consumer.

13 (2) More than 50,000 bacteria per milliliter if to be sold as raw
14 milk for pasteurization or more than 750 bacteria per milliliter
15 after having been subjected to laboratory pasteurization which has

1 a time-temperature equivalent to that required in Section 34001
2 before pasteurization.

3 (3) More than 15,000 bacteria per milliliter or more than 10
4 coliform bacteria per milliliter at time of delivery to the consumer,
5 if pasteurized.

6 (4) More than 750 coliform bacteria per milliliter in raw milk
7 for pasteurization. Samples shall be taken while the milk is on the
8 premises of the producer.

9 (5) More than 800,000 somatic cells per milliliter, as determined
10 by direct microscopic somatic cell count, electronic somatic cell
11 count, or optical somatic cell count. After January 1, 1990, the
12 maximum somatic cell count shall be 600,000 somatic cells per
13 milliliter, as determined by the methods specified in this paragraph.
14 This paragraph does not apply to market goat milk.

15 (b) The director may, by regulation, require different standards
16 for raw market milk for pasteurization from the standards in this
17 section if he or she determines, after an administrative hearing,
18 that the standards are necessary to protect or improve milk quality.

19 SEC. 3. Section 35783 of the Food and Agricultural Code is
20 amended to read:

21 35783. Market milk dairies shall provide sufficient refrigeration
22 capacity to reduce the temperature of the milk, as indicated by a
23 recording thermometer, to 50 degrees Fahrenheit (10 degrees
24 Celsius) or less within four hours of the commencement of the
25 first milking and to 45 degrees Fahrenheit (7 degrees Celsius) or
26 less within two hours after the completion of milking, and to
27 maintain the milk at that temperature until delivery. The blend
28 temperature after the first milking and subsequent milkings, ~~or~~
29 ~~milk in transit on bulk milk tankers,~~ shall not exceed 50 degrees
30 Fahrenheit (10 degrees Celsius). ~~Market milk for pasteurization~~
31 *Raw market milk in bulk milk tankers* shall be maintained in transit
32 at a temperature not exceeding 52 degrees Fahrenheit (11 degrees
33 Celsius). The director may promulgate regulations to provide for
34 temporary deviations from the requirements of this section that
35 may occur as a result of emergencies arising from equipment
36 failure, or as a result of other unusual circumstances; provided,
37 however, that the quality and safety of the product are not adversely
38 affected.

39 SEC. 4. Section 35783.1 of the Food and Agricultural Code is
40 amended to read:

35783.1. A recording thermometer shall be installed in each dairy farm milk storage tank used to cool or store raw market milk for pasteurization during the milking process. If a farm pickup tanker is used in lieu of a dairy farm tank, then the recording thermometer shall be installed in the pipeline following an effective cooling device that cools the milk to 45 degrees Fahrenheit (7 degrees Celsius) or less. Nothing in this section shall be construed as meaning that a recording thermometer must be attached when milk tankers are moved over the road. The director shall issue regulations providing standards for such thermometer including installation and operation.

SEC. 5. Section 35861 of the Food and Agricultural Code is amended to read:

35861. Guaranteed raw milk is market milk which conforms to all of the following minimum requirements:

(a) The health of the cows and goats shall be determined at least once each month by an official representative of an approved milk inspection service, or a milk inspection service which is established by the director.

(b) It shall be produced on dairy farms which score not less than 90 percent on the dairy farm scorecard.

(c) It shall be bottled on the premises where produced and delivered in containers which have the pouring lip completely protected from contamination.

(d) It shall be cooled as provided in Section 35782, and so maintained until it is delivered to the consumer, at which time it shall contain not more than 10,000 bacteria per milliliter or not more than 10 coliform bacteria per milliliter.

(e) It shall be sold to the consumer within 30 hours after production and labeled to indicate the date of sale to the consumer.

SEC. 6. Section 35891 of the Food and Agricultural Code is amended to read:

35891. Grade A raw milk is market milk which conforms to all the following minimum requirements:

(a) The health of the cows and goats shall be determined at least once in two months by an official representative of an approved milk inspection service, or a milk inspection service which is established by the director.

(b) It shall be produced on dairy farms that score not less than 85 90 percent on the dairy farm scorecard.

1 (c) It shall be cooled as provided in Section 35782 and so
2 maintained until delivered to the consumer, at which time it shall
3 contain not more than 15,000 bacteria per milliliter or more than
4 10 coliform bacteria per milliliter.

5 SEC. 7. Section 35893 of the Food and Agricultural Code is
6 amended to read:

7 35893. Milk for grade A pasteurized milk is market milk that
8 conforms to all the following minimum requirements:

9 (a) The health of the cows or goats shall be determined at least
10 once in six months by an official representative of an approved
11 milk inspection service, or a milk inspection service that is
12 established by the director.

13 (b) The milk shall be cooled as provided in Section 35783.

14 (c) It shall be produced on dairy farms that score not less than
15 85 90 percent on the dairy farm scorecard that is adopted by the
16 director.

17 (d) Shall meet the standards of Section 35781 or the regulation
18 adopted pursuant thereto.

19 SEC. 8. Section 35971 of the Food and Agricultural Code is
20 amended to read:

21 35971. Half-and-half is a food that complies with Section
22 131.180 of Title 21 of the Code of Federal Regulations.
23 Half-and-half shall contain not more than 20,000 bacteria per
24 milliliter and not more than 10 coliform bacteria per milliliter.

25 SEC. 9. Section 36861 of the Food and Agricultural Code is
26 amended to read:

27 36861. Ice cream is a food that complies with Section 135.110
28 of Title 21 of the Code of Federal Regulations. Ice cream shall
29 contain not more than 75,000 bacteria per gram.

30 SEC. 10. Section 36951 of the Food and Agricultural Code is
31 amended to read:

32 36951. Sherbet is a food that complies with Section 135.140
33 of Title 21 of the Code of Federal Regulations. Sherbet shall
34 contain not more than 75,000 bacteria per gram.

35 SEC. 11. *Section 36981 of the Food and Agricultural Code is*
36 *amended to read:*

37 36981. Quiescently frozen confections means a clean and
38 wholesome frozen, sweetened, flavored product in the manufacture
39 of which freezing, which is not accompanied with stirring or
40 agitation (generally known as quiescent freezing), has been used.

1 This confection may be acidulated with harmless organic acid,
2 may contain milk solids, may be made with or without added
3 harmless pure or imitation flavoring, and with or without added
4 harmless coloring approved by the ~~director~~ *secretary*. The finished
5 product may contain stabilizers at a level that is necessary to
6 achieve the desired function. *Quiescently frozen confections shall*
7 *contain no more than 75,000 bacteria per gram.*

8 ~~SEC. 11.~~

9 *SEC. 12.* Section 38421 of the Food and Agricultural Code is
10 amended to read:

11 38421. Nonfat dry milk is a food that complies with Section
12 131.125 of Title 21 of the Code of Federal Regulations. Grade A
13 nonfat dry milk shall contain not more than 30,000 bacteria per
14 gram and not more than 10 coliform bacteria per gram.
15 Manufacturing grade nonfat dry milk shall comply with standards
16 of the United States Department of Agriculture.

17 ~~SEC. 12.~~

18 *SEC. 13.* Section 38671 of the Food and Agricultural Code is
19 amended to read:

20 38671. Sour cream is a food that complies with Section 131.160
21 of Title 21 of the Code of Federal Regulations. Sour cream shall
22 contain not more than 10 coliform bacteria per gram.

23 ~~SEC. 13.~~

24 *SEC. 14.* Section 38731 of the Food and Agricultural Code is
25 amended to read:

26 38731. Yogurt is a food that complies with Section 131.200
27 of Title 21 of the Code of Federal Regulations. Yogurt shall contain
28 not more than 10 coliform bacteria per gram, and shall contain not
29 more than 10 colonies per gram each of molds, yeasts, and other
30 fungi.

31 ~~SEC. 14.~~ Section 38761 of the Food and Agricultural Code is
32 amended to read:

33 ~~38761. Whipped cream is a food that complies with Section~~
34 ~~131.157 of Title 21 of the Code of Federal Regulations. Whipped~~
35 ~~cream shall contain not more than 20,000 bacteria per gram and~~
36 ~~not more than 10 coliform bacteria per gram.~~

37 *SEC. 15.* Article 29 (commencing with Section 38761) of
38 Chapter 5 of Part 3 of Division 15 of the Food and Agricultural
39 Code is repealed.

1 *SEC. 16. Article 29 (commencing with Section 38761) is added*
2 *to Chapter 5 of Part 3 of Division 15 of the Food and Agricultural*
3 *Code, to read:*

4
5 *Article 29. Light Cream, Heavy Cream, Whipping Creams, and*
6 *Whipped Cream*
7

8 38761. *For the purposes of this article light cream, light*
9 *whipping cream, heavy cream, and whipped cream are market*
10 *cream products and shall contain not more than 20,000 bacteria*
11 *per gram and not more than 10 coliform bacteria per gram.*

12 38762. *Light cream, coffee cream, or table cream is a food*
13 *that complies with Section 131.155 of Title 21 of the Code of*
14 *Federal Regulations.*

15 38763. *Light whipping cream or whipping cream is a food that*
16 *complies with Section 131.157 of Title 21 of the Code of Federal*
17 *Regulations.*

18 38764. *Heavy cream or heavy whipping cream is a food that*
19 *complies with Section 131.150 of Title 21 of the Code of Federal*
20 *Regulations.*

21 38765. *Whipped cream is a food that complies with Section*
22 *131.25 of Title 21 of the Code of Federal Regulations.*

23 ~~SEC. 15.~~

24 *SEC. 17. Section 38791 of the Food and Agricultural Code is*
25 *amended to read:*

26 38791. *Eggnog is a food that complies with Section 131.170*
27 *of Title 21 of the Code of Federal Regulations. Eggnog shall*
28 *contain not more than 20,000 bacteria per gram and not more than*
29 *10 coliform bacteria per gram.*

30 ~~SEC. 16.~~

31 *SEC. 18. No reimbursement is required by this act pursuant to*
32 *Section 6 of Article XIII B of the California Constitution because*
33 *the only costs that may be incurred by a local agency or school*
34 *district will be incurred because this act creates a new crime or*
35 *infraction, eliminates a crime or infraction, or changes the penalty*
36 *for a crime or infraction, within the meaning of Section 17556 of*
37 *the Government Code, or changes the definition of a crime within*

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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